

AMENDED IN ASSEMBLY JUNE 26, 2012

SENATE BILL

No. 1075

**Introduced by Committee on Rules (Senators Steinberg (Chair),
Alquist, De León, Dutton, and Fuller)**

February 14, 2012

An act to add Article ~~3 4~~ (commencing with Section ~~10260~~) 10290) to Chapter 1 of Part 2 of Division 2 of Title 2 of the Government Code, relating to the Uniform Electronic Legal Material Act.

LEGISLATIVE COUNSEL'S DIGEST

SB 1075, as amended, Committee on Rules. Uniform Electronic Legal Material Act.

Existing law establishes the Legislative Counsel Bureau and provides that the chief of the bureau is the Legislative Counsel. Existing law requires the Legislative Counsel, with the advice of the Assembly Committee on Rules and the Senate Committee on Rules, to make specified legislative materials, bills, codes, and statutes available to the public in electronic form.

This bill would enact the Uniform Electronic Legal Material Act, which would provide for the official designation, authentication, and preservation of certain legal material in electronic records by an official publisher. The bill would designate the Legislative Counsel Bureau as the official publisher for purposes of the act and would make the act operative on July 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 34 (commencing with Section
2 ~~10260~~10290) is added to Chapter 1 of Part 2 of Division 2 of Title
3 2 of the Government Code, to read:

4

5 Article ~~3~~4. Uniform Electronic Legal Material Act

6

7 ~~10260.~~

8 10290. This article may be cited as the Uniform Electronic
9 Legal Material Act.

10 ~~10261.~~

11 10291. As used in this article:

12 (a) “Electronic” means relating to technology having electrical,
13 digital, magnetic, wireless, optical, electromagnetic, or similar
14 capabilities.

15 (b) “Legal material” means all of the following, whether or not
16 in effect:

17 (1) The California Constitution.

18 (2) The statutes of this state.

19 (3) The California Codes.

20 (c) “Official publisher” for electronic legal material means the
21 Legislative Counsel Bureau.

22 (d) “Publish” means to display, present, or release to the public,
23 or cause to be displayed, presented, or released to the public, by
24 the official publisher.

25 (e) “Record” means information that is inscribed on a tangible
26 medium or that is stored in an electronic or other medium and is
27 retrievable in perceivable form.

28 (f) “State” means a state of the United States, the District of
29 Columbia, Puerto Rico, the United States Virgin Islands, or any
30 territory or insular possession subject to the jurisdiction of the
31 United States.

32 ~~10262.~~

33 10292. This article applies to all legal material in an electronic
34 record that is designated as official under Section ~~10263~~ 10293
35 and first published electronically on or after July 1, 2015.

36 ~~10263.~~

37 10293. (a) If an official publisher publishes legal material only
38 in an electronic record, the publisher shall do all of the following:

- 1 (1) Designate the electronic record as official.
- 2 (2) Comply with Sections ~~10264, 10266, and 10267~~ *10294,*
3 *10296, and 10297.*
- 4 (b) An official publisher that publishes legal material in an
5 electronic record and also publishes the material in a record other
6 than an electronic record may designate the electronic record as
7 official if the publisher complies with Sections ~~10264, 10266, and~~
8 ~~10267~~ *10294, 10296, and 10297.*
- 9 ~~10264.~~
- 10 *10294.* An official publisher of legal material in an electronic
11 record that is designated as official under Section ~~10263~~ *10293*
12 shall authenticate the record. To authenticate an electronic record,
13 the publisher shall provide a method for a user to determine that
14 the record received by the user from the publisher is unaltered
15 from the official record published by the publisher.
- 16 ~~10265.~~
- 17 *10295.* (a) Legal material in an electronic record that is
18 authenticated under Section ~~10264~~ *10294* is presumed to be an
19 accurate copy of the legal material.
- 20 (b) If another state has adopted a law substantially similar to
21 this article, legal material in an electronic record that is designated
22 as official and authenticated by the official publisher in that state
23 is presumed to be an accurate copy of the legal material.
- 24 (c) A party contesting the authentication of legal material in an
25 electronic record authenticated under Section ~~10264~~ *10294* has
26 the burden of proving by a preponderance of the evidence that the
27 record is not authentic.
- 28 ~~10266.~~
- 29 *10296.* (a) An official publisher of legal material in an
30 electronic record that is or was designated as official under Section
31 ~~10263-10293~~ shall provide for the preservation and security of the
32 record in an electronic form or a form that is not electronic.
- 33 (b) If legal material is preserved under subdivision (a) in an
34 electronic record, the official publisher shall do all of the following:
- 35 (1) Ensure the integrity of the record.
- 36 (2) Provide for backup and disaster recovery of the record.
- 37 (3) Ensure the continuing usability of the material.
- 38 ~~10267.~~
- 39 *10297.* An official publisher of legal material in an electronic
40 record that must be preserved under Section ~~10266~~ *10296* shall

1 ensure that the material is reasonably available for use by the public
2 on a permanent basis.

3 ~~10268.~~

4 10298. In implementing this article, an official publisher of
5 legal material in an electronic record shall consider all of the
6 following:

7 (a) Standards and practices of other jurisdictions.

8 (b) The most recent standards regarding authentication of,
9 preservation and security of, and public access to, legal material
10 in an electronic record and other electronic records, as promulgated
11 by national standard-setting bodies.

12 (c) The needs of users of legal material in an electronic record.

13 (d) The views of governmental officials and entities and other
14 interested persons.

15 (e) To the extent practicable, the use of methods and
16 technologies for the authentication of, preservation and security
17 of, and public access to, legal material which are compatible with
18 the methods and technologies used by other official publishers in
19 this state and in other states that have adopted the Uniform
20 Electronic Legal Material Act.

21 ~~10269.~~

22 10299. In applying and construing this article, consideration
23 must be given to the need to promote uniformity of the law with
24 respect to its subject matter among states that enact it.

25 ~~10270.~~

26 10300. This article modifies, limits, or supersedes the *federal*
27 *Electronic Signatures in Global and National Commerce Act*, ~~15~~
28 ~~Act (15 U.S.C. Section 7001 et seq., seq.)~~ but does not modify,
29 limit, or supersede Section 101(c) of that ~~act~~, ~~15~~ *act (15 U.S.C.*
30 ~~Section 7001(e), Sec. 7001(c))~~ or authorize electronic delivery of
31 any of the notices described in Section 103(b) of that ~~act~~, ~~15~~ *act*
32 ~~(15 U.S.C. Section 7003(b) Sec. 7003(b))~~.

33 SEC. 2. This act shall become operative on July 1, 2015.